

REMARKS

This response has been prepared in response to the Office action of 9 June 2005 (Paper No. 20050509).

Status Of The Pending Claims

Claims 1 through 49 remain pending, while claims 50 through 53 are newly presented. Allowance of claims 1 through 12, 23 through 28 and 35 through 49 is noted with appreciation.

Amendment Of The Pending Claims

Claims 1, 12, 13, 22, 23, 29 through 32 and 35 are amended in various particulars, principally to broaden the scope of coverage of these claims. Support for these amendments appears in the original claims.

Independent claim 13 is amended to substitute –controller– for “control stage” in two instances, and to delete the phrase “by said controller” in one instance. Support for these amendments appears in original claims 1 and 13. These amendments broaden the scope of coverage provided by claim 13.

Independent claim 29 is amended to broaden the scope of Applicant’s coverage, by re-writing the definitions of the “housing” and the “control stage.” Support for these amendments appears in original claims.

Allowable Subject Matter

Claims 22, 33 and 34 are objected to for dependency upon a rejected base claim,

but the Examining staff stated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejection Under 35 U.S.C. §112

Claims 13, 17 through 22 are rejected under the second paragraph of 35 U.S.C. §112 based upon a question of antecedent basis kindly noted by the Examining staff. The foregoing amendments remove any question of antecedent basis, thus rendering this rejection moot.

Rejection of Claims 13-22 and 29-34 Under 35 U.S.C. § 103(a)

Claims 13 through 22 and 29 through 34 are rejected under 35 U.S.C. §103(a) as as rendered obvious, and unpatentable by Wagener, U.S. Patent No. 6,111,505 in view of Hulick *et al.*, U.S. Patent No. 5,825,626. Applicant respectfully traverses this rejection for the following reasons, and notes that the following remarks pertain applicable to newly presented claims 50 through 53 and to rejected claims 13 through 22 and 29 through 34.

Claims 13 Through 22

In support of this rejection, Paper No. 20050509 states that the proposed combination of Wagener '505 and Hulick *et al.* '626 teaches:

“a housing (12) comprised of a plurality of sidewalls

bearing a lid, forming a container having a closed interior while said lid is in complete engagement with said housing, and providing an open interior able to removably receive items within said open interior while said lid is dislodged from said complete engagement {Fig. 1; col. 2, lines 45-57; col. 3, lines 2-21}. In this case, the removable items are computer peripherals;

a port (I/O port) mounted within said housing and exposed through said housing to receive data signals {col. 3, lines 31-35; col. 4, lines 20-26, lines 41-45}. In this case, the I/O port of Wagener allows the security system of Wagener to be connected to an outside link (30), such as a network link, telephone link, infra-red link, radio links, cable links, etc. {col. 2, lines 15-25};

a control stage (10) comprised of a memory (16) {col. 4, lines 10-19} storing information specific to said container {col. 3, lines 23-25}, said control stage being mounted entirely within said container, being completely encased by said container during said complete engagement {col. 3, lines 21-23}, and being operationally coupled to provide communication by data signals with said interior via said port {col. 3, lines 25 31}, and generating an alarm signal in response to an unauthorized interruption of said communication via said port {col. 3, lines 45-50; col. 5, lines 5-8, lines 45-56}; and an alarm (13) {col. 3, lines 54-67} driven by said controller to broadcast an indication of said unauthorized interruption in response to said alarm signal {col. 3, lines 50-53; col. 4, lines 27-45; col. 5, lines 8-12}.”¹

Paper No. 200500509 continues with the following addition to the foregoing rationale for rejection of claims 13 through 22:

“Although Wagener do not disclose “**a removable lid**”, these claim limitations would have been just a matter of design choice in the system of Wagener (i.e. hinged lid vs. removable lid). In this case, Hulick et al, in the same field of endeavor, teach of a conventional computer housing with a

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Paper No. 200500509, page 5.

removable lid as shown in figures 1-8, for comparison. Sometimes, hinged lids are preferred over removable lids because it does not require screws for attachment to the enclosure, wherein, the screws are often misplaced or gets lost. However, hinged lids takes over a wider working space area when opened. Therefore, a removable lid is preferred to a hinged lid, especially when working in cramped areas, and would have been obvious in the system of Wagener, to one of ordinary skill in the art.”²

This rationale does not provide a *prima facie* showing of obviousness under 35 U.S.C. §103(a).³ Under current practice as defined by the *Manual of Patent Examining Procedure* (8th Edition, Rev. 3), §706.02(j), a *prima facie* case of obviousness is established under 35 U.S.C. §103(a) only when:

“three basic criteria must be met. **First**, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. **Second**, there must be a reasonable expectation of success. **Finally**, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).”⁴

² Paper No. 200500509, page 6.

³ “(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.”

⁴ *Manual of Patent Examining Procedure* (8th Edition, Rev. 3), §706.02(j).

Claims 13 through 22 as rejected, define, among other features,

“a port mounted within said housing and exposed through said housing to receive data signals; and
a ~~control stage~~ controller comprised of a memory storing information specific to said container, said ~~control stage~~ controller being mounted entirely within said container, being completely encased by said container during said complete engagement, and being operationally coupled to provide communication by data signals with said interior via said port ..., and generating establish an alarm signal condition in response to an unauthorized interruption of said communication via said port”.⁵

The Examining staff's proposed combination however, as is inaccurately explained in the foregoing rationale, shows:

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As amended, claim 13 reads:

“a port mounted within to pass data signals ~~said housing and exposed~~ through said housing ~~to receive data signals~~; and

a ~~control stage~~ controller comprised of a memory storing information specific to said container, said ~~control stage~~ controller being mounted entirely within said container, being completely encased by said container during said complete engagement, and being operationally coupled to provide communication by data signals with said interior via said port and to operationally respond to data signals received from sources external to said container via said port by regulating said movement in dependence upon said information, and generating establish an alarm signal condition in response to an unauthorized interruption of said communication via said port”;

while claim 29 reads:

“a at least one port exposed disposed to pass data signals through said housing ~~to receive data signals~~;

a microprocessor-based control stage encased within said housing, comprised of a memory maintaining information specific to said housing, said control stage ~~being mounted on said container and~~ being operationally coupled to provide participate in communication by data signals with from said interior via data signals conducted through said port with a host computer sited externally to said container, said control stage responding to data signals received via said port by selectively accommodating said release from said enclosed interior in dependence upon said information, and creating an alarm condition in response to an unauthorized interruption of said communication via said port”.

“a port (I/O port) mounted within said housing ... to receive data signals”

in combination with,

“generating an alarm signal in response to an unauthorized interruption of said communication via said port {col. 3, lines 45-50; col. 5, lines 5-8, lines 45-56}; and an alarm (13) {col. 3, lines 54-67} driven by said controller to broadcast an indication of said unauthorized interruption in response to said alarm signal {col. 3, lines 50-53; col. 4, lines 27-45; col. 5, lines 8-12}.”⁶

Careful examination of the proposed combination will reveal that this rationale is fabricated, inaccurate, and a misrepresentation of the state of the art.

First, the rationale given by Paper No. 20050509 is a paraphrase created by the Examining staff, rather than an accurate analysis of “the subject matter as a whole”⁷ which Applicant seeks to patent. Specifically, as rejected Applicant’s “port” was “exposed through set housing to receive data signals” while Applicant’s “control stage” is “operationally coupled to ... establish and an alarm condition in response to an unauthorized interruption of set communication via said port.” Claims 13 and 29, as well as newly presented claims 50 and 52 contemplate the “control stage” alternatively, acting upon information specific to the housing. Nowhere does the Examining staff’s proposed combination generate “an alarm signal in response to an unauthorized interruption of communication via said port”, even though the Examining staff cites three different

⁶ Paper No. 200500509, page 5.

⁷ 35 U.S.C. §103(a).

passages from the proposed combination in support of this erroneous assertion in Paper No. 20050509. These three passages,⁸ discussed seriatim below, do not support the rationale given by the Examining staff for this rejection. These passages are:

A - column 3, lines 45-50

Column 3, lines 45 through 50 describe the use of the alarm in the proposed combination to,

“monitor other aspects of the protected electronic device 12 which is installed, [1] such as temperature, voltage, diagnostic porch, and/or [2] the disconnection of the electronic device 12 from the network security loop or [3] a power source.”⁹

Nothing in this passage either recognizes the need for nor addresses the “unauthorized interruption of said communication via said port”, which the proposed combination teaches is conducted across communication link 30.

B - column 5, lines 5-8

In the second passage, the proposed combination suggests that,

“alternatively, the alarm sensor 13 may sense some other alarm condition, for example, such as [1] the disconnection of some other protected electronic device 12 from the power source or [2] the breakage of a security loop connection.”¹⁰

As explained by the Examining staff’s proposed combination, disconnection of a

⁸ Column 3, lines 45-50; column 5, lines 5-8; and column 5, lines 45-56.

⁹ Wagener '505, column 3, lines 45-50.

¹⁰ Wagener '505, column 5, lines 5-8.

protected electronic device is,

“the unauthorized removal and/or exchange of components operably connected to the protected electronic device 12.”¹¹

The “breakage of a security loop connection” refers to the third embodiment of the Examining staff’s proposed combination illustrated in Figures 5 and 6, and described in column 7, lines 1 through 63. In this embodiment, “a first signal” and “a second signal” are respectively passed over first conductor 46a and second conductor 48a; these signals are, by necessity, devoid of information and no communication of any “data signal” is contemplated. Consequently, no alarm is initiated by an unauthorized interruption of “communication link 30.”

C - column 5, lines 45-56

In the third passage,

“the security system 10 is designed to detect an alarm condition, such as [1] the opening of the enclosure 11 of the protected electronic device 12, or [2] the disconnection of the protected electronic device 12 from a power source or [3] the breakage or interruption of the protected electronic device from a security loop”¹²

These three instances of alarm conditions detected by the Examining staff’s proposed combination is devoid of any contemplation of Applicant’s unauthorized interruption of

¹¹ Wagener '505, column 2, lines 60-62.

¹² Wagener '505, column 5, lines 45-56.

communication via said port;¹³ in point of fact, the Examining staff's proposed combination is devoid of either recognition or remedy for an unauthorized interruption of communication link 30.

Despite the citation of three different passages from the Examining staff's proposed combination, those three passages each fail to support the inaccurate rationale given in Paper No. 20050509. There is therefore, no basis among the evidence of record supplied by the Examining staff's proposed combination to justify maintaining this rejection. Its withdrawal is respectfully requested.

Second, the Examining staff's proposed combination is very precise in its differentiation between a "data signal" and an "alarm signal". A "data signal" is defined throughout the Examining staff's proposed combination, beginning with column 3, line 51 and continuing through column 4, lines 1, 4, 12, 16, 27, 29, 32 and 42; column 5, lines 14 through 16, 20, 23, 26 and 27; and column 6, lines 25, 28, 29, 31, 35, 38, 40, 43, 48, 59, 62, 63 and 64.¹⁴ Moreover, the Examining staff's proposed combination carefully

¹³ This feature of rejected independent claims 13 and 29, and newly presented dependent claims 51 and 53, is wholly and remarkably absent from the art, which must, of necessity, tolerate both authorized and unauthorized entry into the "container" of the Examiner's proposed combination. In actuality, the Examiner's proposed combination guards against unauthorized "removal" of circuit boards and related items, and does not purport to guard against unauthorized access or unauthorized opening of its container.

¹⁴ A *digital signal* is typically defined as a 'method of how information is transferred; usually it is transferred in binary code in signals or pulses.' See, by way of example, <<http://www.computerhope.com/jargon/d/datasign.htm>>. Copy attached. The Examining staff's attention is invited to note that this the proposed combination's use of *digital signal* is entirely consistent with this definition.

differentiates between these signals; the “data signals” and the “first signal” and the “second signal” are described in column 7, lines 34 through 63 in the detailed description of the third embodiment illustrated by Figures 5 and 6, which depends operationally upon detection of either a disconnection of cable 38a or an open circuit condition in first conductor 46a or second conductor 48a. Each of these conditions is described by the Examining staff’s proposed combination as constitution a breach of “a network security loop”¹⁵ rather than Applicant’s unauthorized interruption of communication link 30. Convincing evidence of this deficiency in the Examining staff’s proposed combination lies in the observation that nowhere does the Examining staff’s proposed combination either recognize or address a breach of communication link 30. In point of fact, the Examining staff’s proposed combination fails to appreciate the need to protect communication link 30 from an unauthorized interruption.

Consequently, and in view of the foregoing deficiencies in the Examining staff’s proposed combination and advantages flowing therefrom provided by Applicant’s remedy of that deficiency, claims 13 through 22 are patentably distinguishable and allowable over the prior art.

Third, the Examining staff’s proposed combination carefully defines the term “communication link”¹⁶ and attributes those found in its definition of a “communication

¹⁵ Wagener '505, column 3, line 49.

¹⁶ Wagener '505, column 2, lines 15 through 26.

link”¹⁷ characteristics to “communication link 30”, and in the fourth embodiment, to “communication link 56b.”¹⁸ Nowhere does the proposed combination attribute the “communication link” characteristics, properties, or operational aspects to its security loop 34a illustrated by Figures 5 and 6 and incorporated into its third embodiment. The occurrence of an alarm condition attributable to a breach of security loop 34a is, according to the express teachings of the Examining staff’s proposed combination, not equivalent to an unauthorized interruption of either “communication link 30” or “communication link 56b.”¹⁹ Given the advantages taught by Applicant in protecting a structural component such as communication link 30 from an unauthorized interruption, together with failure of the Examining staff’s proposed combination to either provide any protection of that structure or to recognize the enhancement in security attained by providing that protection, there is no *prima facie* showing of obviousness of any of claims 13 through 22. Withdrawal of this rejection is therefore required.

Fourth, there is neither motivation in the prior art nor basis for the combination proposed by the Examining staff in support of this rejection. In short, the sole basis of

¹⁷ Wagener '505, column 2, lines 15 through 26.

¹⁸ Wagener '505, column 8, lines 37.

¹⁹ Wagener '505, column 8, lines 37. Whether transceiver 54b is moved out of range or the “communication between the alarm sensor and the one transceiver 54b is interrupted ...” is irrelevant to consideration of whether an unauthorized interruption of “communication link 56b” has occurred. This feature of the Examiner’s proposed combination aptly demonstrates that the proposed combination lacks such advantages of Applicant’s container manager as suitably for freight shipments, a feature which is advantageously endowed by the structures of claims 13, 29, 50 and 52.

record for making the Examining staff's proposed combination lies in the structure defined by Applicant's rejected claims. In other words, the Examining staff's proposed combination is nothing more than a hindsight reconstruction of the art provided by Applicant alone. Neither the primary reference nor the secondary reference suggests the combination constructed by the proposed combination of the Examining staff set forth in Paper No. 20050509. Absent evidence of record for this reconstruction of the art, this rejection may not be maintained. Its withdrawal and the allowance of claims 13 through 22 are therefore respectfully urged.

Claims 14 Through 16

In support of the rejection of claims 14-16, the Examining staff offered a rationale that:

"Claims 14-16 are directed towards different types of communication ports (socket, infrared receiver, antenna). In this case, the I/O port of Wagener allows the security system of Wagener to be connected to an outside link (30), such as a network link, telephone link, infrared link, radio links, cable links, etc. {col. 2, lines 15-25}. Figure 5 shows a cable (38a) used as a communication link. Obviously, the I/O port of Wagener has a socket to connect the cable (38a) to the security system (12a), to one of ordinary skill in the art. Figure 7 shows a 56b as a communication link. Obviously, the I/O port of Wagener has an antenna to communicate with the transceiver (54b), to one of ordinary skill in the art. And obviously, an infrared communication link would require an infrared receiver, and therefore, would have been obvious in

the system of Wagener, to one of ordinary skill in the art.”²⁰

Despite this degree of detail found in the Examining staff’s proposed combination, in point of fact, the Examining staff’s proposed combination fails to appreciate the need to protect “communication link 30” from an unauthorized interruption. Convincing evidence of this deficiency in the Examining staff’s proposed combination lies in the observation that nowhere does the Examining staff’s proposed combination either recognize or address a breach of “communication link 30.” Maintenance of this rejection is unwarranted under 35 U.S.C. §103(a). It withdrawal is respectfully urged.

Claims 17 Through 21

Paper No. 20050509 fails to comply with the requirement for completeness set forth under 37 CFR §1.104(a), (b) and (c). The rationale given in support of the rejection of each of this claims is simply the repetition of the text of Applicant’s claims. This is technically erroneous because this language and these passages and phrases do not appear in the Examining staff’s proposed combination. Moreover, and as previously explained here, the Examining staff’s proposed combination fails to appreciate the need to protect “communication link 30” from an unauthorized interruption. Convincing evidence of this deficiency in the Examining staff’s proposed combination lies in the observation that nowhere does the Examining staff’s proposed combination either recognize or address a

²⁰ Paper No. 20050509, page 7.

breach of "communication link 30." Furthermore, the failure of the Examining staff to both (i) identify the existence of these "differences"²¹ and to (ii) consider "the subject matter" of the pending claims "as a whole",²² illustrates both the incompleteness of this rejection under 37 CFR §1.104(a), (b) and (c) and its impropriety under 35 U.S.C. §103(a). Maintenance of this rejection is therefore unwarranted under 35 U.S.C. §103(a). Its withdrawal is respectfully urged; alternatively, written clarification under 37 CFR §1.104(a), (b) and (c) is respectfully requested.

Claims 29 Through 34

In support of the rejection of claims 29 through 31, Paper No. 20050509 states that the proposed combination teaches:

"the combination of claims 13 and 19-21, further comprising a monitor driven by said host computer to visually display video images. Although Wagener discloses a guard computer (31) driving a monitor as shown in figure 1, Wagener do not disclose expressly **"said monitor displaying video images"**. However, it is unclear in the claim what type of video images are being displayed. Inherently, the monitor of Wagener displays video images. Therefore, it would have been obvious to one of ordinary skill in the art to have the monitor of Wagener to "display video images" as claimed, because

²¹ "(a) A patent may not be obtained ... if *the differences* between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made"

²² "(a) A patent may not be obtained ... if the differences between the subject matter sought to be patented and the prior art are such that *the subject matter as a whole* would have been obvious"

computer monitors are designed to display video images.”²³

This rationale does not provide a *prima facie* showing of obviousness under 35 U.S.C. §103(a)²⁴ as defined by the *Manual of Patent Examining Procedure* (8th Edition, Rev. 3), §706.02(j) because, as previously explained in this paper, nowhere does the Examining staff’s proposed combination generate “an alarm signal in response to an unauthorized interruption of communication via said port.” This deficiency is not remedied by turning to “communication link 56b” found in the fourth embodiment of the Examining staff’s proposed combination.²⁵ Paper No. 20050509 improperly fails to either address these differences. This failure by the Examining staff to either (i) identify the existence of these “differences”²⁶ or to (ii) consider “the subject matter” of the pending claims “as a whole”,²⁷ illustrates both the incompleteness of this rejection under 37 CFR §1.104(a),

²³ Paper No. 20050509, page 9.

²⁴ “(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.”

²⁵ Wagener '505, column 8, lines 37. Whether transceiver 54b is moved out of range or the “communication between the alarm sensor and the one transceiver 54b is interrupted ...” is irrelevant to consideration of whether an unauthorized interruption of “communication link 56b” has occurred.

²⁶ “(a) A patent may not be obtained ... if *the differences* between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made”

²⁷ “(a) A patent may not be obtained ... if the differences between the subject matter sought to be patented and the prior art are such that *the subject matter as a whole* would have

(b) and (c) and its impropriety under 35 U.S.C. §103(a). Maintenance of this rejection is therefore unwarranted under 35 U.S.C. §103(a). Its withdrawal is respectfully urged; alternatively, written clarification under 37 CFR §1.104(a), (b) and (c) is respectfully requested.

Claim 32

In an effort to justify the rejection of dependent claim 32, Paper No. 20050509 states that,

“Wagener do not disclose **“a second alarm driven by said host computer”**. However, in a wireless configuration shown in figure 7, Wagener teach of transceivers 54b outputting a signal indicative of an alarm condition (interruption of communication) to the guard/host computer (31b) {col. 8, lines 45-51}. Obviously, the guard computer drives a second alarm for notifying security personnel {col. 8, lines 14 18}, to one of ordinary skill in the art.”

This is a misrepresentation of the teachings of the applied art. Specifically, in the Examining staff’s proposed combination, not only is whether, or not, transceiver 54b has moved out of range or the “communication between the alarm sensor and the one transceiver 54b is interrupted ...” is irrelevant to consideration of claim 32, but the fact that when transceiver 54b does moved out of range only a single alarm is possible due the fact that “the alarm sensor has been moved out of range of the one transceiver 54b”²⁸

been obvious”

²⁸ Wagener '505, column 8, lines 34-36.

Conclusion

The citation of such exemplars of the art as USP 6,065,408 (Tillim et al), USP 5,615,625 (Cassidy et al), USP 5,479,341 (Pihl et al), USP 5,111,755 (Rouse), and USP 4,942,831 (Tel) are cited in that these patents teach of a container manager confirms the novelty contributed to the art by the structure defined by Applicant's foregoing claims. The Examining staff's care and thoroughness in completing the patentability search is noted with appreciation.

In view of the above, it is submitted that the claims of this application are in condition for allowance, and early issuance thereof is solicited. Should any questions remain unresolved, the Examining staff is requested to telephone Applicant's attorney.

A Petition for a two-month extension of time and the incurred fee of \$225.00 accompanies this Paper. Should the Petition become lost or misplaced, the Director is requested to characterize this paragraph as the requisite petition and to charge Deposit Account of Applicant's undersigned attorney in the amount of the fee incurred.

Separately, a fee of \$300.00 is incurred by the addition of two (2) independent claims in excess of 5 and four (4) total claims in excess of total 49. Applicant's check drawn to the order of Commissioner accompanies this Amendment. Should the check become lost, be deficient in payment, or should other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of such fees.

Respectfully submitted,



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